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October 23, 2002

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Ms. Marlene Dortch
Secretary
Federal Communications Commission
The Portals, TW-A325
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: WT Docket No. 02-55
Improving Public Safety Communications in the 800 MHz Band
Ex Parte Comments of The Wackenhut Corporation

Dear Ms. Dortch:

On behalf of our client, The Wackenhut Corporation (“Wackenhut”), we respectfully submit these *ex parte* comments regarding the “Consensus Plan” that has been submitted for consideration in the above-captioned proceeding by various public safety and private wireless entities and Nextel Communications, Inc. (“Nextel”).¹ As further discussed below, Wackenhut believes that if the “Consensus Plan” or any other band reconfiguration proposal is adopted by the Commission, the Commission’s amended rules must include certain safeguards to protect existing 800 MHz licensees such as Wackenhut that use their systems for critical safety-related functions.

Wackenhut is a leading provider of contract services to major corporations, government agencies, and a wide range of industrial and commercial customers. The company's security-related services include uniformed security officers, investigations, background checks, emergency protection, and security audits and assessments.

In southeast Florida, Wackenhut utilizes a two-way 800 MHz radio system in support of its security operations, which are quasi-law enforcement in nature in many respects. For example, in Miami-Dade County, Wackenhut protects Miami’s Metrorail/Metromover system, an elevated light-rail system in urban Miami. Wackenhut has assigned 250 armed, former law-enforcement personnel to this project, and its 800 MHz dispatch center is located within the Miami Dade Transit Central Command Center. Wackenhut’s 800 MHz system is a “lifeline”

¹ See “Wireless Telecommunications Bureau Seeks Comment on ‘Consensus Plan’ Filed in the 800 MHz Public Safety Interference Proceeding,” *Public Notice*, DA 02-2202 (Sept. 6, 2002).

during emergencies, Bolo's ("be-on-the-lookout" alerts) and special events, and for day-to-day communications with law enforcement and Miami Dade Transit personnel.

As Wackenhut is tasked with the complete personnel security program at Miami Dade Transit, its officers are involved on a daily basis with ejections, detentions, fare evaders, unruly patrons, and rule violators. These situations frequently escalate to physical detentions of suspects and the need for unimpeded communications to Wackenhut's dispatch center for a law enforcement and/or emergency medical response. Wackenhut's existing 800 MHz system has certain unique features, including the ID and emergency panic button feature, which affords Wackenhut's personnel the lifesaving benefit of pushing a button for emergency response through the 800 MHz system.

Wackenhut also provides security services for the Tri County Commuter Rail Authority ("Tri-Rail"), a heavy rail system that travels 71 miles through Miami Dade, Broward, and Palm Beach Counties. Wackenhut has 40 armed, former law enforcement officers assigned to Tri-Rail, and its duties are similar to those performed for Metrorail except over a much larger geographical area (71 miles versus Metrorail's 21 mile system). On Tri-Rail, Wackenhut is responsible for enforcing all rules and regulations for the system, providing security for cash pickups at each station facilitated through codes from Wackenhut's dispatch center and revenue agents, providing vehicular patrols of Tri-Rail's 18 stations, and providing fare inspection for all passengers. Moreover, the same events that occur on Metrorail also occur on Tri-Rail – *i.e.*, ejections, detentions, and medical emergencies. As previously stated, Wackenhut's quasi-law enforcement function in regard to such incidents would not be possible without the effectiveness of Wackenhut's stand-alone 800 MHz system and accompanying equipment.

From a business perspective, the Metrorail and Tri-Rail contracts generate a total of about \$12.1 million per year in revenue for Wackenhut. Wackenhut's stand-alone 800 MHz radio system played a persuasive role in its ability to secure each of these contracts. In fact, each party's Request for Proposal stipulated the customer's preference that the winning contractor own and operate an 800 MHz system. Wackenhut believes that the loss of its 800 MHz stand-alone system would place these contracts in jeopardy.

Apart from the above, Wackenhut also has 1,800 uniformed personnel in South Florida that utilize the 800 MHz communications system in support of security services at locations such as grocery stores, energy companies, retail establishments, homeowners communities and similar facilities. In many cases, Wackenhut's personnel have replaced either contract or off-duty law enforcement.

Wackenhut currently has approximately \$1.5 million invested in its 800 MHz Communications Center, repeaters, and its 800-850 hand-held units. All of these operations utilize channels in the General Category portion of the 800 MHz band and therefore would potentially be subject to a retuning obligation in the event that the "Consensus Plan" is adopted.

Wackenhut estimates that the costs of such retuning would total approximately \$100,000 to \$125,000.²

Wackenhut appreciates the efforts of the “Consensus Coalition” to develop a band reconfiguration plan that seeks to resolve the public safety interference problem while minimizing total relocation costs and burdens. Should the Commission elect to pursue the route of band reconfiguration, Wackenhut believes that the “Consensus Plan” is preferable to other proposals that have been submitted thus far (particularly the proposal set forth in Nextel’s initial “white paper”) in that it does in fact entail less movement and disruption than the other plans. At the same time, Wackenhut urges the Commission to recognize that existing systems such as Wackenhut’s that are no way a part of the interference problem (and that serve important safety-related functions) will be impacted if the “Consensus Plan” is adopted. To protect these systems, certain safeguards and prerequisites must be in place.

To begin with, no 800 MHz licensee should be required to relocate or retune unless equivalent spectrum *within the 800 MHz band* is made available to that licensee. As discussed above, Wackenhut’s major security contracts in southeast Florida essentially are contingent on its continued ability to provide certain services that are unique to its 800 MHz communications system. The loss of the ability to operate in the 800 MHz band would jeopardize these contracts and potentially Wackenhut’s other core operations in southeast Florida. Although it is Wackenhut’s understanding that the provision of equivalent replacement channels in the 800 MHz band is a feature of the “Consensus Plan,” it urges the Commission to clearly incorporate such a requirement into its rules should the “Consensus Plan” be adopted.

Further, principles of basic fairness (as well as FCC precedent) dictate that private 800 MHz licensees should be entitled to full, prior compensation for any retuning or relocations costs to be incurred as a result of the “Consensus Plan” or any other band realignment approach that may be implemented. Toward this end, Wackenhut is aware that members of the “Private Wireless Coalition” have been engaged in discussions with Nextel in an effort to secure funding for private wireless 800 MHz retuning and relocation costs. Whether or not these discussions lead to an agreement, the Commission should make it clear that no private 800 MHz licensee is required to retune or relocate without full compensation (whatever the source).

Also of concern to Wackenhut are issues involving the transition of existing General Category band licensees (such as Wackenhut) to their new spectrum assignments in another segment of the 800 MHz band. Given the above-noted quasi-law enforcement functions served by Wackenhut’s 800 MHz system in southeast Florida, any disruption to its operations could have serious or even life-threatening consequences. As a result, any band reconfiguration plan

² These estimated costs include the reprogramming of approximately 850 portable units and six repeaters, as well as the rental of 250 portable units to be used during the retuning process.

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that is adopted must be accompanied by explicit rules to ensure that systems do not suffer any service interruptions or “down time” during the retuning or relocation process. Among the necessary safeguards would be provisions that enable licensees to implement duplicate or redundant equipment where necessary to prevent such disruption and to obtain reimbursement for any reasonable costs incurred therefrom.

In summary, Wackenhut urges the Commission to proceed with caution in adopting any band reconfiguration plan and to minimize to the greatest extent possible the potential negative impact upon existing 800 MHz licensees that may be required to retune or relocate safety-related and other mission-critical systems.

Very truly yours,

Wayne V. Black
Nicole B. Donath